

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVON MAURICE HOWES,

Plaintiff,

v.

CLAIRE JACQUILINE WHITE, et al.,

Defendants.

No. 2:22-cv-02047-DAD-AC (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
THIS ACTION DUE TO PLAINTIFF'S
FAILURE TO STATE A CLAIM

(Doc. No. 4)

Plaintiff Davon Maurice Howes is a county jail inmate proceeding *pro se* and *in forma pauperis* in this civil rights action brought pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636 (b)(1)(B) and Local Rule 302.

On November 17, 2022, the assigned magistrate judge screened plaintiff's complaint and issued findings and recommendations recommending that this action be dismissed, without leave to amend, due to plaintiff's failure to state a cognizable claim upon which relief may be granted. (Doc. No. 4.) Specifically, the magistrate judge found that plaintiff's allegations are insufficient to state that cognizable § 1983 claims against the three defendants named in this action: (1) a superior court judge who is absolutely immune from suit for conduct "within the course and scope of their judicial duties," (2) a district attorney who is likewise immune from suit for performing traditional prosecutorial functions, and (3) his privately retained attorney who was not

1 a state actor.” (*Id.* at 3–5.) Those findings and recommendations were served on plaintiff and
2 contained notice that any objections thereto were to be filed within fourteen (14) days from the
3 date of service. (*Id.* at 6.) To date, no objections to the pending findings and recommendations
4 have been filed, and the time in which to do so has now passed.

5 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a
6 *de novo* review of the case. Having carefully reviewed the entire file, the court concludes that the
7 findings and recommendations are supported by the record and by proper analysis.

8 Accordingly,

- 9 1. The findings and recommendations issued on November 17, 2022 (Doc. No. 4) are
10 adopted in full;
- 11 2. This action is dismissed due to plaintiff’s failure to state a cognizable claim for
12 relief; and
- 13 3. The Clerk of the Court is directed to close this case.

14 IT IS SO ORDERED.

15 Dated: February 12, 2023

16 
UNITED STATES DISTRICT JUDGE